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THE ANDAMAN AND NICOBAR ISLANDS WEIGHTS AND MEASURES (ENFORCEMENT) REGULATION, 1959

No. 1 OF 1959

Promulgated by the President in the Ninth Year of the Republic of India.

A Regulation to provide for the enforcement of standard weights and measures and for matters connected therewith.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Andaman and Nicobar Islands Weights and Measures (Enforcement) Regulation, 1959.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Regulation or for different areas or for different classes of undertakings or for different classes of goods

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(a) "Chief Commissioner" means the Chief Commissioner of the Andaman and Nicobar Islands;

(b) "commercial weight or measure" means a weight or measure purporting to be a standard weight or measure used in any transactions for trade or commerce;

(c) "Controller" means the Controller of Weights and Measures appointed under section 15;

(d) "Inspector" means an Inspector of Weights and Measures appointed under section 15;

(e) "measuring instrument" means any measuring instrument other than a weighing instrument, and includes any instrument for measuring length, area, volume or capacity;

(f) "Mint" means the mint of the Central Government either in Bombay or in Calcutta;

(g) "prescribed" means prescribed by rules made under this Regulation;

(h) "reference standards" means the sets of standard weights and measures supplied to the Chief Commissioner by the Central Government in pursuance of sub-section (2) of section 15 of the Standards of Weights and Measures Act, 1956;

89 of 1956.

(i) "stamping" means marking in such manner as to be, so far as practicable, indelible, and includes casting, engraving, etching and branding;

(j) "standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of the Standards of Weights and Measures Act, 1956, and includes any other weight or measure permitted to be used by the Central Government in pursuance of sub-section (1) of section 14 of the said Act;

89 of 1956.

(k) "verification", with its grammatical variations, used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument, and also includes re-verification;

(l) "weighing instrument" means any instrument for weighing, and includes scales with the weights belonging thereto, scale-beams, balances, spring balances, steel yards and other weighing machines.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Working standards.

3. (1) For the purpose of verifying the correctness of commercial weights and measures and weighing and measuring instruments used in transactions for trade or commerce, the Chief Commissioner may cause to be prepared as many sets of authenticated standard weights and measures as it may deem necessary to be called the working standards, and special sets of working standards in relation to bullion and precious stones may also be prepared.

(2) The working standards shall be made of such material and according to such designs and specifications and shall be prepared by such agency and shall be stamped and authenticated by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A working standard shall be verified with the secondary standard and marked by such persons, at such places, at such intervals and in such manner as may be prescribed:

Provided that a special working standard in relation to bullion and precious stones shall be verified with the reference standard.

(5) A working standard which is not so verified and marked within the prescribed period shall not be deemed legal or be used for the purposes of this Regulation.

(6) A working standard which has become defective shall not be deemed legal or be used for the purposes of this Regulation, until it has been verified and marked in the prescribed manner.

4. (1) For the purpose of verifying the correctness of the working standards, the Chief Commissioner may cause to be prepared at the Mint as many sets of authenticated standard weights and measures as he may deem necessary to be called the secondary standards. Secondary standards

(2) The secondary standards shall be made of such material and according to such design and specifications as may be prescribed and shall be stamped and authenticated by such person or authority as the Central Government may direct.

(3) The secondary standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A secondary standard shall be verified with the reference standard at least once in every period of five years and shall be marked with the date of verification in the prescribed manner by such person or authority as the Chief Commissioner may direct.

(5) A secondary standard which is not so verified and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Regulation.

5. The reference standards shall be kept at such places, in such custody and in such manner as the Chief Commissioner may direct. Reference standards.

6. (1) For the purpose of verifying the correctness of commercial weights and measures and of weighing and measuring instruments used in transactions for trade or commerce, the Chief Commissioner may cause to be prepared as many sets of weighing and measuring instruments as he may deem necessary. Standard weighing and measuring instruments.

(2) Such instruments shall be of such kind, kept in such number and shall be verified and stamped in such manner as may be prescribed.

(3) Such instruments shall be kept at all places where secondary standards or working standards are kept.

Prohibition of use of weights and measures other than standard weights and measures.

7. (1) Notwithstanding anything contained in any other law or any custom, usage or practice, no unit of mass or measure, other than the standard weights or measures, shall be used in any transaction for trade or commerce or in any dealing or contract or for any work to be done or goods to be sold or delivered in any area or class of goods or undertakings in respect of which this Regulation has come into force.

(2) Any custom, usage, practice or method of whatever nature, which permits in any trade a trader, seller or buyer to demand, receive or cause to be demanded or received any quantity of article in excess of, or less than, the quantity fixed by the weight or measure by which the contract or dealing in respect of the said article has been made, shall be void.

(3) Any transaction, dealing or contract made or had after the expiry of three months from the commencement of this Regulation shall, in so far as it contravenes the provisions of sub-section (1), be void.

Power to prescribe the use of weights only, or measures only, in certain cases.

8. (1) Notwithstanding anything contained in this Regulation, the Chief Commissioner may, by notification in the Official Gazette, direct that in any specified trade or class of trades no transaction, dealing or contract shall be made or had except by weight only or except by measure only.

(2) A notification issued under this section shall take effect in such area, with effect from such date, and subject to such conditions, if any, as may be specified therein.

CHAPTER III

VERIFICATION AND STAMPING OF WEIGHTS AND MEASURES

Marking of denominations on commercial weights and measures.

9. Every weight or measure manufactured for use as a commercial weight or measure shall bear the description of the weight or measure which it purports to be marked legibly on it in such manner as may be prescribed.

Prohibition of sale of unstamped commercial weights and measures.

10. No commercial weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified in accordance with the rules made under this Regulation and stamped in the prescribed manner by an Inspector with a stamp of verification.

Prohibition of use of unstamped commercial weights or measures.

11. No weight or measure or weighing or measuring instrument shall be used in transactions for trade or commerce unless it has been verified in accordance with the rules made under this Regulation and stamped in the prescribed manner by an Inspector with a stamp of verification.

Power to exempt.

12. Where the size of a commercial weight or measure renders it impracticable to have any denomination marked on it under the provisions of section 9 or to be stamped under the provisions of section 10 or section 11, the Chief Commissioner may, by notification in the Official Gazette, exempt such weight or measure from being so marked or stamped.

13. No person shall, in course of trade, manufacture, repair or sell any commercial weight or measure or any weighing or measuring instrument, unless he has obtained in the prescribed manner a licence in this behalf from the Chief Commissioner or any officer authorised by him.

Prohibition of manufacture, etc., of weights, and measures without licence.

14. No person shall sell, offer for sale, expose for sale, or have in his possession for sale, any article contained in a sealed package or container, unless such package or container bears thereon, or on a label securely attached thereto, a description of the net weight or measure of the article contained therein:

Marking of weights or measures on sealed containers.

Provided that the provisions of this section shall not apply to an article sold, offered for sale, exposed for sale, or had in possession for sale, which is not ordinarily sold in transactions for trade or commerce by weight or measure.

15. (1) The Chief Commissioner may appoint a Controller of Weights and Measures for the Union territory and as many Assistant Controllers and Inspectors of Weights and Measures as may be necessary for exercising the powers and discharging the duties conferred or imposed on them by or under this Regulation.

Appointment of Controller, Assistant Controllers and Inspectors.

(2) The Chief Commissioner may, by general or special order, define the local limits within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Regulation.

(3) Subject to the provisions of this Regulation, all Assistant Controllers of Weights and Measures and Inspectors shall perform their functions under the general superintendence and control of the Controller; and the Controller and the Assistant Controllers of Weights and Measures may, in addition to the powers and duties conferred or imposed on them by or under this Regulation, exercise any power or discharge any duty so conferred or imposed on Inspectors.

16. (1) Every Inspector shall, for the purpose of verification of weights and measures and weighing and measuring instruments, attend at such place and time within his jurisdiction as may be appointed in this behalf by the Controller.

Verification and stamping by Inspectors.

(2) The Inspector shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification.

(3) If, on such verification, the Inspector finds the weight or measure or weighing or measuring instrument correct and in conformity with the Standards of Weights and Measures Act, 1956, and the rules made thereunder, he shall stamp the same with a stamp of verification in the prescribed manner; but, if on the other hand, he finds the weight or measure or weighing or measuring instrument incorrect and defective, he shall, subject to the provisions of section 18, refuse to stamp the same with a stamp of verification and obliterate the stamp thereon.

17. (1) An Inspector may, within the area under his jurisdiction, inspect at all reasonable times, the weights, measures and weighing and measuring instruments which are used in transactions for trade etc.

Power to inspect, etc.

or commerce or are in the possession of any person or are on any premises for such use and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or weighing or measuring instrument prescribed for the purpose.

(2) For the purpose of verifying the correctness of any weight or measure used in any transaction, an Inspector may also verify the weight or measure of any article sold or delivered in the course of the transaction.

(3) An Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures, weighing and measuring instruments which are used by him or are in his possession or are kept on any premises used for trade and all documents and records relating thereto and such trader, employee or agent shall comply with such requirement.

(4) An Inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Regulation appears to have been committed or which appears to have been or which might be used in the commission of such an offence, and may also seize and detain any articles sold or delivered or caused to be sold or delivered by means of such weight or measure or weighing or measuring instrument together with any documents or records relating thereto.

(5) Where an Inspector has reasons to believe that a sealed package or container does not actually contain the net weight or measure of the article which it purports to contain, the Inspector may break open the sealed package or container and verify its contents; and if, on such verification, the net weight or measure of the article is found to be correct, the Inspector shall re-seal the package or container where it is possible so to do without injury to the contents thereof and attach a certificate thereto stating the correct weight or measure of the article, but if, on the other hand, the net weight or measure of article is found to be incorrect, the Inspector may seize and detain the package or container and the article contained therein.

(6) For the purpose of such inspection, an Inspector may, at all reasonable times, enter into any place where weights, measures or weighing or measuring instruments are used or kept for use in transactions for trade or commerce and inspect such weights and measures and weighing and measuring instruments.

Power of
Inspector
to adjust
weights
and mea-
sures.

18. If any Inspector specially authorised by the Chief Commissioner in this behalf finds any weight or measure or weighing or measuring instrument defective and the defect is removable by adjustment, he may make such adjustment therein to bring it in conformity with the provisions of the Standards of Weights and Measures Act, 1956, and the rules made thereunder, and after such adjustment, he shall stamp the same with a stamp of verification in the prescribed manner. 89 of 1956.

19. (1) Every manufacturer, repairer or dealer in weights and measures or weighing or measuring instruments, and every person using them in transactions for trade or commerce shall maintain such records and accounts as may be prescribed and, if required so to do by an Inspector, shall produce such records and accounts before him.

Manufacturers, ect., to maintain records and documents.

(2) Notwithstanding anything contained in sub-section (1), if the Chief Commissioner is of opinion that having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, he may, by order, exempt such person or class of persons from the operation of that sub-section.

20. (1) If an Inspector—

Appeals.

(a) refuses to stamp any weight or measure or weighing or measuring instrument or obliterates the stamp thereon under sub-section (3) of section 16, or

(b) seizes and detains any weight or measure or weighing or measuring instrument under sub-section (4) of section 17, or

(c) seizes and detains any package or container or the article contained therein under sub-section (5) of section 17, or

(d) refuses to make any adjustment under section 18,

any person aggrieved by such refusal or seizure and detention may, within sixty days from the date of such refusal or seizure and detention, prefer an appeal to the Controller.

(2) An appeal shall lie from every decision or order made by the Controller in pursuance of any power conferred on him by or under this Regulation [(other than a decision made in appeal under sub-section (1)], within sixty days from the date of such decision or order, to the Chief Commissioner or any officer specially authorised by the Chief Commissioner in this behalf.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such inquiry as it deems proper, decide the appeal and the decision of the appellate authority shall be final.

21. The Chief Commissioner may charge such fees—

Levy of fees.

(a) for the grant of licences under section 13 for manufacture, repair or sale of commercial weights and measures and weighing and measuring instruments, and

(b) for the verification, marking, stamping and adjustment of commercial weights and measures and weighing and measuring instruments,

as may be prescribed.

22. A weight or measure or weighing or measuring instrument, duly stamped by an Inspector under this Regulation, shall be a legal weight or measure or weighing or measuring instrument in all places in which this Regulation has come into force unless it is found to be defective and shall not be liable to be re-stamped by reason merely of the fact that it is used in any place other than that in which it was originally stamped.

Validity of weights and measures duly stamped.

CHAPTER IV

PENALTIES

Penalty for sale or delivery by weight or measure other than standard weight or measure.

23. Whoever, after the expiry of three months from the commencement of this section, sells or causes to be sold or delivers or causes to be delivered in the course of any transaction for trade or commerce any article by any denomination of weight or measure other than one of the standard weights or measures shall be punishable, for a first offence, with fine which may extend to two thousand rupees, and for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for sale of unstamped commercial weights and measures.

24. Whoever sells or delivers any commercial weight or measure or any weighing or measuring instrument which has not been verified or stamped in accordance with the provisions of this Regulation and the rules made thereunder shall be punishable with fine which may extend to two thousand rupees.

Penalty for use of unstamped commercial weights and measures.

25. Whoever uses in any transaction for trade or commerce, or has in his possession for such use, any commercial weight or measure or any weighing or measuring instrument which has not been verified or stamped in accordance with the provisions of this Regulation and the rules made thereunder shall be punishable for a first offence, with fine which may extend to two thousand rupees, and for a second or subsequent offence, with imprisonment for a period which may extend to three months, or with fine, or with both.

Explanation 1.—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or any employee or agent of such trader, such trader, employee or agent shall be presumed, until the contrary is proved, to have had it in his possession for use in transactions for trade or commerce.

Explanation 2.—Where any weight or measure or weighing or measuring instrument is used or possessed in contravention of this section by any employee or agent of a trader on behalf of such trader, such trader shall, unless he proves that the offence under this section was committed by his employee or agent without his knowledge or consent, be also deemed to be guilty of the offence.

Penalty for manufacture of weights, etc., without licence.

26. If any person manufactures, repairs, or sells any commercial weight or measure or weighing or measuring instrument, without obtaining a licence as required by section 13, he shall be punishable with imprisonment for a period which may extend to three months, or with fine, or with both.

Penalty for use of weight or measure in contravention of section 8.

27. Whoever contravenes any of the provisions of a notification issued under section 8 shall be punishable with fine which may extend to two thousand rupees.

Penalty for failure to mark weight or measure on sealed containers.

28. Whoever contravenes the provisions of section 14 shall be punishable with fine which may extend to two thousand rupees.

29. Whoever fraudulently uses any standard weight or measure or weighing or measuring instrument which he knows to be false shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for fraudulent use of weights or measures, etc.

30. Whoever is in possession of any commercial weight or measure or weighing or measuring instrument which he knows to be false, intending that the same may be fraudulently used, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for being in possession of false weight or measure, etc.

31. Whoever makes, sells or disposes of or causes to be made, sold or disposed of, any standard weight or measure or weighing or measuring instrument which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for making or selling false weight or measure, etc.

32. Whoever in selling any article by weight or measure, delivers or causes to be delivered to the purchaser less than what is purported to be sold shall, if the deficiency exceeds the prescribed limit of error, be punishable with fine which may extend to three hundred rupees.

Penalty for giving short weight or measure.

33. (1) Whoever forges or counterfeits any stamp used under this Regulation for the stamping of any standard weight or measure or weighing or measuring instrument or possesses any such counterfeit stamp, or removes a stamp from any standard weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument, or wilfully increases or diminishes a weight or measure so stamped, shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

Penalty for forging, etc., of weights, measures, etc.

(2) Whoever knowingly uses, sells, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or a measure so increased or diminished shall be punishable with imprisonment for a period which may extend to six months or with fine, or with both.

34. Whoever—

(a) refuses or neglects to produce for inspection under section 17, any weight or measure or weighing or measuring instrument or any document or record relating thereto in his possession or on his premises, or

Penalty for neglect or refusal to produce weight or measure etc., for inspection.

(b) refuses to permit an Inspector to inspect and verify any such weight, measure, instrument, document or record, or

(c) obstructs the entry of an Inspector under section 17, or

(d) otherwise obstructs or hinders an Inspector in the performance of his duties under this Regulation,

shall be punishable with fine which may extend to five hundred rupees.

Penalty
for breach
of duty by
Inspector.

35. If an Inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Regulation or of the rules made thereunder, he shall be punishable with imprisonment for a period which may extend to one year, or with fine, or with both.

CHAPTER V

MISCELLANEOUS

Protection
of action
taken in
good faith.

36. No suit, prosecution or other legal proceeding shall lie against the Controller, or any Assistant Controller of Weights and Measures or any Inspector or any other person appointed under this Regulation in respect of anything which is in good faith done or intended to be done in pursuance of this Regulation or rules made thereunder.

Controller,
etc., ap-
pointed
under the
Regulation
to be public
servants.

37. The Controller, every Assistant Controller and Inspector appointed under this Regulation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Cognizance
of offences,
etc.

38. (1) No court shall take cognizance of an offence punishable under this Regulation except upon complaint in writing made by the Controller or any officer authorised in this behalf by the Controller by general or special order.

(2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Regulation.

Stamped
weight, etc.,
to be pre-
sumed to be
correct.

39. A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Regulation and the rules made thereunder shall be presumed to be correct until its inaccuracy is proved, if this is produced in any court by any Inspector having charge thereof or by any person acting under the general or special authority of the Controller.

Offences by
companies.

40. (1) If the person committing an offence under this Regulation is a company, the company as well as every person in-charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

41. The Chief Commissioner may, by notification in the Official Gazette, direct that any power exercisable by him under this Regulation or rules made thereunder shall, in relation to such matters and subject to such conditions, as may be specified in the direction be exercisable also by such officer or authority subordinate to the Chief Commissioner as may be specified in the notification. Delegation of powers.

42. Subject to any rules that may be made under the Standards of Weights and Measures Act, 1956, in this behalf, the Chief Commissioner may prescribe the limits of error which may be tolerated,— Limits of error to be tolerated in weights and measures.

(a) in secondary standards referred to in section 4;

(b) in working standards referred to in section 3;

(c) in commercial weights and measures or in selling articles by weight or measure generally or as regards any trade or class of trades; and

(d) weighing and measuring instruments.

43. (1) The Chief Commissioner may, by notification in the Official Gazette, make rules to carry out the purposes of this Regulation. Power to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the material of which and the designs and specifications according to which working standards may be made, the agency by which such standards may be prepared, the person by whom or the authority by which and the manner in which such standards may be stamped and authenticated; the places at which and the custody and manner in which such standards may be kept;

(b) the procedure for the verification and marking of working standards, the persons by whom, the places at which and the intervals at which, they may be marked;

(c) the material of which and the designs and specifications according to which secondary standards may be made, the places at which and the custody and manner in which such standards may be kept;

(d) the procedure for the verification or re-verification and marking of secondary standards and the manner in which they may be marked;

(e) the number of weighing and measuring instruments to be kept, the manner in which they may be verified and stamped and necessary particulars regarding the same;

(f) the material, form and specification, and manufacture and sale of commercial weights and measures and weighing and measuring instruments;

(g) the manner in which commercial weights and measures may be marked by manufacturers;

(h) the form and manner in which, and the conditions subject to which, licences may be granted to persons for manufacture, repair or sale of commercial weights and measures and weighing and measuring instruments;

(i) the qualifications, functions and duties generally of Inspectors under this Regulation;

(j) the verification and stamping of weights and measures and weighing and measuring instruments and the period within which they are to be re-verified;

(k) the inspection of weights and measures and weighing and measuring instruments used in transactions for trade or commerce;

(l) the seizure, detention and disposal of weights and measures which are not authorised by this Regulation;

(m) the books, accounts and records relating to weights and measures and weighing and measuring instruments to be maintained and the manner in which they may be maintained or produced;

(n) the limits of error which may be tolerated in secondary or working standards;

(o) the limits of error which may be tolerated in weights and measures and weighing and measuring instruments used or intended to be used in transactions for trade or commerce;

(p) the limits of error which may be tolerated in selling articles by weight and measure generally or as regards any trade or class of trades;

(q) the form and manner in which appeals may be preferred against decisions of Inspectors and the procedure for hearing appeals;

(r) the fees which may be charged for the grant of licences under section 13 and for verification, adjustment and stamping of weights and measures and weighing and measuring instruments and the collection and levy of the same;

(s) any other matter which has to be, or may be, prescribed.

(3) In making any rule under this section the Chief Commissioner may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.

RAJENDRA PRASAD,
President.

G. R. RAJAGOPAUL, *Secy.*

CORRIGENDUM

In the Gazette of India Extraordinary, Part II, Section 1, dated the 17th January, 1959, for issue "No. 47", *read* issue "No. 1", and for page numbers 611, 612 and 613, *read* page numbers 1, 2 and 3.

